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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NICOLE G. NEAL,

Plaintiff,

v.

MIDLAND CREDIT MANAGEMENT,
INC.,

Defendant.

Case No. 3:20-cv-00611

COMPLAINT

**1. VIOLATION OF THE FAIR DEBT
COLLECTION PRACTICES ACT, 15 U.S.C. §
1692 *ET SEQ.***

JURY TRIAL DEMANDED

NOW COMES, Plaintiff, NICOLE G. NEAL, individually, through undersigned counsel,
complaining of Defendant, MIDLAND CREDIT MANAGEMENT, INC. as follows:

NATURE OF THE ACTION

1. This action arises under the Fair Debt Collection Practices Act (the “FDCPA”), 15
U.S.C. § 1692 *et seq.*

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

3. Venue in this district is proper under 28 U.S.C. § 1391(b)(2).

PARTIES

4. NICOLE G. NEAL (“Plaintiff”) is a natural person, over 18-years-of-age, who at all
times relevant resided in Carson City, Nevada.

5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

8. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

11. Over time, approximately \$630.00 in personal charges were made to Plaintiff's account ("subject debt").

13. Plaintiff's approximately \$630.00 balance is a "debt" as defined by 15 U.S.C. § 1692a(5).

15. Upon reading “TIME SENSITIVE DOCUMENTS”, Plaintiff immediately opened the envelope.

17. The letter is a “communication” as defined by 15 U.S.C. . § 1692a(2) as it conveys information regarding Plaintiff’s subject debt.

1 18. The letter is an attempt to collect upon the subject debt as the letter directly and
2 unambiguously states as such.

3 19. The envelope's inclusion of the words "TIME SENSISTIVE DOCUMENTS" on its
4 exterior created a false sense of urgency for Plaintiff who was unable to afford to make a payment,
5 leading to needless emotional distress.
6

7 **DAMAGES**

8 20. Concerned with having had her rights violated, Plaintiff was forced to retain
9 counsel; expending time and incurring attorney's fees to vindicate her rights.

10 21. Moreover, Plaintiff suffered significant emotional distress and anxiety as a result of
11 Defendant's correspondence.

12 22. Additionally, as a result of the confusing language in the collection letter sent by
13 Defendant, Plaintiff was deprived of her right to receive clear information as required by the
14 FDCPA.
15

16 **CLAIMS FOR RELIEF**

17 **Count I – Violations of Sections 1692f of the FDCPA**

18 23. Plaintiff restates and incorporates all paragraphs as if fully set forth herein.

19 24. Pursuant to §1692f of the FDCPA, a debt collector is prohibited from using "unfair
20 or unconscionable means to collect a debt." 15 U.S.C. § 1692f.

21 25. The statute sets out a nonexclusive list of conduct that qualifies as unfair or
22 unconscionable. *Id.*

23 26. Section 1692(f)(8) prohibits the following conduct: using any language or symbol,
24 other than the debt collector's address, on any envelope when communicating with a consumer by
25 use of the mails or by telegram, except that a debt collector may use his business name if such name
26 does not indicate that he is in the debt collection business.
27

28 27. Section 1692f(8) regulates language "on any envelope" *Id.*

1 28. The text of Section 1692f(8) is unequivocal “Any language or symbol,” except the
2 debt collector’s address and, in some cases, business name, may not be included “on any envelope”.

3 29. In other words, NO EXCEPTIONS.

4 30. Accordingly, MCM’s inclusion of “TIME SENSITIVE DOCUMENTS” on the
5 front of the envelope violates 15 U.S.C. § 1692f(8).

6 31. As alleged, Plaintiff instantly opened MCM’s mail because it said “TIME
7 SENSITIVE DOCUMENTS”.

8 32. Upon information and belief, MCM has determined that it collects more from
9 consumer by including “TIME SENSITIVE DOCUMENTS” on envelopes.

10 33. MCM’s practice of including “TIME SENSITIVE DOCUMENTS” on envelopes
11 mailed to consumers unfairly puts MCM ahead of other debt collectors.

12 34. On information and belief, MCM’s research demonstrates that the least
13 sophisticated consumer is more likely to open letters sent in envelopes marked “TIME
14 SENSITIVE DOCUMENTS” than envelopes that do not contain the words “TIME SENSITIVE
15 DOCUMENTS.”

16 **WHEREFORE**, Plaintiff, NICOLE G. NEAL, respectfully requests that this Honorable Court
17 enter judgment in his favor as follows:

- 18
- 19 a. Declaring that the practices complained of herein are unlawful and violate
 - 20 Sections 1692f(8) of the FDCPA;
 - 21 b. Awarding Plaintiff statutory and actual damages, in an amount to be determined
 - 22 at trial, for the underlying FDCPA violations;
 - 23 c. Awarding the Plaintiff costs and reasonable attorney fees as provided under 15
 - 24 U.S.C. §1692k; and
 - 25 d. Awarding any other relief as the Honorable Court deems just and proper.
 - 26
 - 27
 - 28

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury of any and all issues in this action so triable of right.

DATED: October 29, 2020

Respectfully submitted,

NICOLE G. NEAL

By: /s/ Nicholas M. Wajda

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